

REMARKS

This is a full and timely response to the outstanding final Office action electronically delivered on September 17, 2008.

In the instant Office action, claims 1-9 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Claims 1-5, 7-11, 13-17, 19, and 21-24 stay rejected under 35 U.S.C. 102(e) as being anticipated by US Publication No. 2004/0015953 to Vincent ("Vincent" hereinafter). Claims 6 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of US Publication No. 2003/0074403 to Harrow et al. ("Harrow" hereinafter). Claims 12, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of US Patent No. 7,228,539 to Zhang et al. ("Zhang" hereinafter).

After entry of the proposed amendments without introducing any new matter, claims 1-17 and 20-25, as amended, remain pending in this application. Further, rejections of claims are traversed on account of following grounds.

Discussion of Office Action Rejections Under 35 U.S.C. 112, Second Paragraph

Claims 1-9 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Office indicated the amendments made on June 3, 2008 are still unclear that in step (d) how unselecting limitation is determined, since step (b) is only selecting... plurality of user terminals.

In response thereto, Applicants have amended claim 1 by defining the selected user terminal and a plurality of unselected user terminals, and the descriptions regarding the term “unselected user terminals” in claims 2-3, 5, 8-9, and 24 are correspondingly amended as well. It is respectfully submitted that claims 1-9 and 24 are now definite and clear. The claim rejections under 35 U.S.C. 112, second paragraph are thus solicited to be withdrawn.

Discussion of Office Action Rejections Under 35 U.S.C. 102

Claims 1-5, 7-11, 13-17, 19, 21-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Vincent.

Applicants hereby otherwise traverse these rejections and submit that claims 1-5, 7-11, 13-17, 19, and 21-24 are neither taught nor suggested by Vincent.

The currently amended claim 1 recites in parts as provided below:

“1. A method of software upgrade control for a system server and a sub-network including a plurality of user terminals, the method comprising the steps of:

...

(b) selecting one of said plurality of user terminals to obtain a selected user terminal and a plurality of unselected user terminals;

(b-1) providing said selected user terminal with a first client-server structure and a second client-server structure, wherein said first client-server structure and said system server communicate with each other in an interversion protocol, and said second client-server structure and said system server communicate with each

other in a file transfer protocol;

(c) requesting from said system server a list of said updated software versions that are absent in said selected user terminal by said first client-server structure;

(d) determining which of said plurality of unselected user terminals in step (b) include any of said absent updated software versions of the list;

(e) receiving from said plurality of unselected user terminals said absent updated software versions determined in step (d) to have been included in said plurality of unselected user terminals by said second client-server structure;

(f) receiving from said system server those of said absent updated software versions determined in step (d) to have not been included in said unselected ones of said plurality of user terminals; and

(g) upgrading said selected user terminal with said received absent updated software versions.” (Emphasis added)

The amendments to claim 1 are supported by FIG. 2 and relevant descriptions of the present application, and therefore no new matter issue is raised by entering the proposed amendments to claim 1.

As indicated in FIG. 2 of the present invention, the user terminal 18-1 includes a first client-server structure 24, a second client-server structure 26, and an agent 28. The first client-server structure 24 and the first server 12-1 of the system server 12 communicate with each other in an interversion protocol ("IVP"). The second client-server structure 26 and the second server 12-2 of the system server 12

communicate with each other in a file transfer protocol ("FTP"). Since the first client-server structure 24 and the second client-server structure 26 respectfully communicate with the system server 12 via different protocols, the user terminal 18-1 is able to, by means of the first client-server structure 24, broadcast or request an inquiry in the sub-network or request a list of updated software versions. In addition, the user terminal 18-1 is capable of, by means of the second client-server structure 26, receiving or transmitting the updated software versions.

Here, the first client-server structure 24 and the second client-server structure 26 are communicated by way of the agent 28. Namely, the first client-server structure 24 and the second client-server structure 26 respectively perform different operational mechanisms based on the demands of the user terminal 18-1. Thereby, the process of downloading is simplified.

By contrast, in FIG. 6 of Vincent and paragraph [0061] of Vincent's specification, it reads, "[U]ser computer 110, when it receives data file 172, opens the data file and accesses the required component list included therein...The user computer 110 installs and configures the required software components when the required software components are received." That is to say, the user terminal of Vincent communicates with the software server 160, the software server 162, and the computer 164 **only by way of the user computer 110**. Further, how the user computer 110a and the user computer 110b are individually operated in line with the user terminal is neither disclosed nor suggested by FIG. 3 of Vincent. Therefore, according to the teachings of Vincent, the inquiry broadcasted or requested by the user terminal, the request for a list of updated

software versions, and the receipt or transmission of the updated software versions are all handled by the user computer 110. Namely, the user terminal of Vincent is not capable of upgrading the software by assigning different missions to respect user computers. Accordingly, the process of downloading is unlikely to be simplified by referring to the teachings of Vincent.

In light of the foregoing, Vincent fails to teach or suggest at least the features of “(b-1) providing said selected user terminal with a first client-server structure and a second client-server structure, wherein said first client-server structure and said system server communicate with each other in an interversion protocol, and said second client-server structure and said system server communicate with each other in a file transfer protocol”, “(c) requesting from said system server a list of said updated software versions that are absent in said selected user terminal by said first client-server structure”, “(e) receiving from said plurality of unselected user terminals said absent updated software versions determined in step (d) to have been included in said plurality of unselected user terminals by said second client-server structure”, and “(f) receiving from said system server those of said absent updated software versions determined in step (d) to have not been included in said unselected ones of said plurality of user terminals.” As such, the present invention, as set forth in claim 1, and its dependent claims 2-5, 7-9, and 24, is submitted to be novel over Vincent, and thus claims 1-5, 7-9, and 24 should be allowed.

As for the rejection of claim 10 and its dependent claims 11 and 13-16, it is submitted that Vincent also fails to teach or suggest “a sub-network including a **first user**

terminal and a second user terminal, each user terminal including a first client-server structure and a second client-servers structure, wherein said first client-server structure and said system server communicate with each other in an interversion protocol, and said second client-server structure and said system server communicate with each other in a file transfer protocol” set forth in the amended claim 10 for at least the reasons discussed above. Hence, claims 10-11 and 13-16 should be novel over Vincent and allowable.

Likewise, the amended claim 17 incorporating the aforesaid novel feature recited in the amended claim 10 should also be novel and allowable over Vincent. For at least the same reasons, claims 19 and 21-23 depending on the allowable claim 17 should also be allowed as a matter of law.

Discussion of Office Action Rejections Under 35 U.S.C. 103

Claims 6 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of Harrow.

According to the above arguments, Vincent fails to disclose the present invention as set forth in independent claims 1 and 10. Since Harrow also fails to disclose said missing features of Vincent, it is respectfully submitted Vincent and Harrow, taken alone or in combination, fail to render the present invention as set forth in claims 1 and 10 obvious.

Claim 6 depends on the non-obvious independent claim 1, and claim 25 depends on the non-obvious independent claim 10. Accordingly, claims 6 and 25 should also be

non-obvious and allowable.

Claims 12, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vincent in view of Zhang.

According to the above arguments, Vincent fails to disclose the present invention as set forth in independent claims 10 and 17. Since Zhang also fails to disclose said missing features of Vincent, it is respectfully submitted Vincent and Zhang, taken alone or in combination, fail to render the present invention as set forth in claims 10 and 17 obvious.

Claim 12 depends on the non-obvious independent claim 10, and claims 18 and 20 depend on the non-obvious independent claim 17. Accordingly, claims 12, 18, and 20 should also be non-obvious and allowable.

CONCLUSION

For at least the foregoing reasons, it is believed that the pending claims 1-17 and 20-25 are in proper condition for allowance and an action to such effect is earnestly solicited. If the Office believes that a telephone conference would expedite the examination of the above-identified patent application, the Office is invited to call the undersigned.

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